

Douglas N. Letter
General Counsel
OFFICE OF GENERAL COUNSEL
U.S. HOUSE OF REPRESENTATIVES
219 Cannon House Office Building
Washington, D.C. 20515
(202) 225-9700
Douglas.Letter@mail.house.gov

Counsel for Amicus Curiae

[Additional counsel on signature page]

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT YAKIMA**

Case No. 1:20-cv-03127

STATE OF WASHINGTON, STATE
OF COLORADO, STATE OF
CONNECTICUT, STATE OF
ILLINOIS, STATE OF MARYLAND,
STATE OF MICHIGAN, STATE OF
MINNESOTA, STATE OF NEVADA,
STATE OF NEW MEXICO, STATE
OF OREGON, STATE OF RHODE
ISLAND, STATE OF VERMONT,
COMMONWEALTH OF VIRGINIA,
and STATE OF WISCONSIN,

Plaintiffs,

v.

DONALD J. TRUMP, in his official
capacity as President of the United
States of America; UNITED STATES
OF AMERICA; LOUIS DEJOY, in his
official capacity as Postmaster General;
UNITED STATES POSTAL
SERVICE,

Defendants.

**MOTION FOR LEAVE TO FILE
BRIEF OF THE U.S. HOUSE OF
REPRESENTATIVES AS AMICUS
CURIAE IN SUPPORT OF THE
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION, TO
EXCEED PAGE LIMITATIONS,
AND FOR EXPEDITED
CONSIDERATION.**

NOTED FOR: September 11, 2020
Without Oral Argument

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REPRESENTATIVES AS AMICUS CURIAE**

1 The United States House of Representatives respectfully moves for leave to
 2 file the attached brief as *amicus curiae* in support of the Plaintiffs’ motion for
 3 preliminary injunction and to file an *amicus* brief in excess of the ten-page limit
 4 prescribed by Local Rule 7(f).¹ The House also moves pursuant to Local Rule
 5 7(i)(2)(C) for expedited consideration of this motion. All parties consent to the filing
 6 of the attached over-length brief and to the court’s expedited consideration of this
 7 motion. No person or entity other than *amicus* and its counsel assisted in or made a
 8 monetary contribution to the preparation or submission of this brief.
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 11 *Amicus curiae.* District courts have “broad discretion” to permit *amicus*
 12 *curiae* to file briefs. *Puget Soundkeeper All. v. APM Terminals Tacoma, LLC*, No.
 13 17-cv-5016, 2019 WL 2224920, at *4 (W.D. Wash. May 23, 2019) (internal
 14 quotation marks and citation omitted). Courts frequently welcome *amicus* briefs
 15 from non-parties “concerning legal issues that have potential ramifications beyond
 16 the parties directly involved or if the *amicus* has unique information or perspective
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 21 ¹ The Bipartisan Legal Advisory Group (BLAG) of the United States House
 22 of Representatives, which “speaks for, and articulates the institutional position of,
 23 the House in all litigation matters,” has authorized the filing of an *amicus* brief in
 24 this matter. Rules of the U.S. House of Representatives (116th Cong.), Rule II.8(b),
 25 <https://perma.cc/M25F-496H>. The BLAG comprises the Honorable Nancy Pelosi,
 26 speaker of the House, the Honorable Steny H. Hoyer, Majority Leader, the
 Honorable James E. Clyburn, Majority Whip, the Honorable Kevin McCarthy,
 Republican Leader, and the Honorable Steve Scalise, Republican Whip.
 Representative McCarthy and Representative Scalise dissented.

1 that can help the court beyond the help that the lawyers for the parties are able to
2 provide.” *Id.* Here, the legal issues have profound ramifications beyond the parties,
3 and the House has a unique perspective that can help the Court analyze the relevant
4 issues.
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6 This case challenges service rollbacks initiated by the United States Postal
7 Service in advance of the 2020 national election—conduct that has far-reaching
8 ramifications. The House has a special interest in this subject matter because
9 Congress established and oversees the Postal Service pursuant to Congress’s
10 expressly enumerated powers under the Constitution. The House has a strong
11 institutional interest in ensuring that the Postal Service fulfills its essential role to
12 connect the American people—in this case, by once again providing a full and fair
13 opportunity for millions of Americans to vote in a national election.
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17 Due to the COVID-19 pandemic, an unprecedented number of Americans are
18 expected to rely on the mail to cast their ballots in November. The ramifications for
19 the House are particularly acute because the election will decide the identity of every
20 one of its 435 Members. Each Member represents roughly 750,000 people. The
21 right of each of these constituents to choose his or her representative is a “portion of
22 [every person’s] sovereign power.” *Bd. of Estimate of City of N.Y. v. Morris*, 489
23 U.S. 688, 693 (1989). As a representative body deriving its legitimacy from direct
24 election by the American people, the House’s institutional integrity rests on a free
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1 and fair electoral process. That process, in turn, depends more than ever on the
2 Postal Service's prompt and reliable delivery of election mail.

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4 The House's amicus brief will provide the Court with the House's unique
5 perspective regarding the reasons that Congress first established and continues to
6 reform and to oversee the Postal Service. The brief addresses information the House
7 itself has learned directly through Congressional oversight regarding the Postmaster
8 General's recent changes to the operations of the Postal Service, and why those
9 changes are contrary to longstanding principles underlying the Postal Service's
10 function. The House's well-established role in monitoring and investigating the
11 Postal Service provides the House with unique knowledge about, and a strong
12 interest in addressing, the ways that the Postmaster General's recent operational
13 changes to the Postal Service undermine Congressional efforts to secure fair and
14 accurate elections.

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18 *Excess page limitations.* Good cause exists for permitting the House to file a
19 brief 6 pages in excess of the 10-page limit imposed by Local Rule 7(f). As
20 discussed above, the House's brief will address the ways in which the recent
21 operational changes to the Postal Service run contrary to the principles underlying
22 the agency's operation and undermine Congressional efforts to secure the right to
23 vote. The extra pages are necessary to provide full treatment of these issues. Indeed,
24 this Court has already recognized the extraordinary circumstances this case presents

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1 and has appropriately granted the parties permission to file memoranda up to 60
2 pages. ECF No. 48. The House's brief is less than a third that length. *See* Fed. R.
3 App. P. 29(d) (providing that amicus briefs in appellate cases should be no more
4 than half the length of the parties' principal briefs). Because the House's full but
5 succinct explication of relevant issue will aid the Court in its determination, the
6 Court should permit the House to file a brief in excess of 10 pages.
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9 *Expedited Consideration.* Good cause exists for expedited consideration of
10 this motion because, per the Court's September 1 Order, all *amicus* briefs are due
11 Friday, September 11 and a hearing on Plaintiff's Motion for Preliminary Injunction
12 is set for September 17. The normal time requirements imposed by Local Rule
13 7(i)(2) would not allow this motion to be heard before the deadline for amicus briefs
14 or the September 17 hearing.
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17 CONCLUSION

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19 For the foregoing reasons, the House's motion for leave to file the proposed
20 amicus curiae brief should be granted.
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Respectfully Submitted,

/s/ Douglas N. Letter

KATHLEEN R. HARTNETT
COOLEY LLP
101 California Street
San Francisco, CA 94111
(415) 693-2000
khartnett@cooley.com

DOUGLAS N. LETTER
General Counsel
TODD B. TATELMAN
Principal Deputy General Counsel
ADAM A. GROGG
ERIC R. COLUMBUS
JONATHAN B. SCHWARTZ
OFFICE OF GENERAL COUNSEL
U.S. HOUSE OF REPRESENTATIVES
219 Cannon House Office Building
Washington, D.C. 20515
(202) 225-9700
Douglas.Letter@mail.house.gov

ELIZABETH B. PRELOGAR
ELIAS S. KIM
COOLEY LLP
1299 Pennsylvania Ave. NW
Washington, DC 20004
(202) 842-7800
eprelogar@cooley.com

*Attorneys for Amicus Curiae **

ADAM S. GERSHENSON
LIZ A. TRAFTON
ZACHARY SISKI
COOLEY LLP
500 Boylston St
Boston, MA 02116
(617) 937-2300
agershenson@cooley.com

BARRETT J. ANDERSON
COOLEY LLP
4401 Eastgate Mall
San Diego, CA 92121-1909
(858) 550-6000
banderson@cooley.com

* Attorneys for the Office of General Counsel for the U.S. House of Representatives and “any counsel specially retained by the Office of General Counsel” are “entitled, for the purpose of performing the counsel’s functions, to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof without compliance with any requirements for admission to practice before such court.” 2 U.S.C. § 5571.

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CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to the parties in the case, all of whom are registered users of the CM/ECF system.

/s/ Douglas N. Letter

DOUGLAS N. LETTER
OFFICE OF GENERAL COUNSEL
U.S. HOUSE OF REPRESENTATIVES
219 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-9700
Douglas.Letter@mail.house.gov

Counsel for Amicus Curiae

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